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## **Via ECF & Fax to (212) 805-7927**

September 6, 2018

Honorable Naomi Reice Buchwald  
United States District Judge  
Daniel Patrick Moynihan US Courthouse  
500 Pearl Street  
Courtroom 21A  
New York, NY 10007

**Re: Plaintiffs' Status Report**  
**Case No.: 17-cv-05192-NRB, *Orellana et al. v. Macy's Retail Holdings Inc.***

Dear Judge Buchwald:

We write on behalf of Plaintiffs and submit the attached Status Report on settlement negotiations and a proposed discovery plan, pursuant to Your Honor's instructions to the parties given during the Parties' July 31, 2018 Status Conference.

Plaintiffs also take exception with Defendant's proposed briefing schedule for Plaintiffs' prospective motion for class certification. While Plaintiffs previously sought to file a motion for class certification, the Court's July 10, 2018 Memorandum and Order and Plaintiffs' interlocutory appeal of the same, renders the prospective motion for class certification impractical at this time.

Plaintiffs believe that they have a strong case for appeal and intend to file their prospective motion for class certification after the Court of Appeals' determination on their appeal, or at the earliest practical time as the circumstances may permit. Proceeding with the motion for class certification after the Court of Appeals determination would serve judicial economy, save expenses for both parties, and prevent potentially inconsistent rulings in this matter.

Plaintiffs would also like to respectfully remind the Court that Defendant has been withholding certain confidential discovery documents in violation of the State Supreme Court's discovery order as explained in the attached Discovery Plan, III, F.

In the meantime, Plaintiffs continue to be willing participants of the settlement discussions with Defendant and welcome the opportunity to negotiate a resolution to this matter so long as such discussions are conducted in good faith.

Sincerely,

Faruk Usar, Esq.  
Counsel for Plaintiffs

Cc: All counsels of the record via ECF filing